

REFERENCE TITLE: CORP; disability retirements

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2117

Introduced by
Representative McClure

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; REPEALING SECTION 38-886, ARIZONA REVISED STATUTES; REPEALING SECTION 38-886.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 301, SECTION 1; REPEALING SECTION 38-881.06, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 261, SECTION 5; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-886; REPEALING LAWS 2007, CHAPTER 261, SECTION 17; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by
3 Laws 2007, chapter 87, section 5, is amended to read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 ~~1. "Accidental disability" means a physical or mental condition that~~
7 ~~the local board finds totally and permanently prevents an employee from~~
8 ~~performing a reasonable range of duties within the employee's department, was~~
9 ~~incurred in the performance of the employee's duties and was the result of~~
10 ~~any of the following:~~

11 ~~(a) Physical contact with inmates, prisoners, parolees or persons on~~
12 ~~probation.~~

13 ~~(b) Responding to a confrontational situation with inmates, prisoners,~~
14 ~~parolees or persons on probation.~~

15 ~~(c) A job related motor vehicle accident while on official business~~
16 ~~for the employee's employer. A job related motor vehicle accident does not~~
17 ~~include an accident that occurs on the way to or from work. Persons found~~
18 ~~guilty of violating a personnel rule, a rule established by the employee's~~
19 ~~employer or a state or federal law in connection with a job related motor~~
20 ~~vehicle accident do not meet the conditions for accidental disability.~~

21 1. "ACCIDENTAL DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT
22 THE LOCAL BOARD FINDS TOTALLY AND PERMANENTLY PREVENTS AN EMPLOYEE FROM
23 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S JOB
24 CLASSIFICATION AND THAT WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S
25 DUTY.

26 2. "Accumulated member contributions" means the sum of all member
27 contributions deducted from a member's salary and paid to the fund, plus
28 member contributions transferred to the fund by another retirement plan
29 covering public employees of this state, plus previously withdrawn
30 accumulated member contributions ~~which~~ THAT are repaid to the fund in
31 accordance with this article, minus any benefits paid to or on behalf of a
32 member.

33 3. "Alternate payee" means the spouse or former spouse of a
34 participant as designated in a domestic relations order.

35 4. "Alternate payee's portion" means benefits that are payable to an
36 alternate payee pursuant to a plan approved domestic relations order.

37 5. "Average monthly salary" means one-thirty-sixth of the aggregate
38 amount of salary that is paid a member by a participating employer during a
39 period of thirty-six consecutive months of service in which the member
40 received the highest salary within the last one hundred twenty months of
41 service. Average monthly salary means the aggregate amount of salary that is
42 paid a member divided by the member's months of service if the member has
43 less than thirty-six months of service. In the computation under this
44 paragraph, a period of nonpaid or partially paid industrial leave shall be

1 considered based on the salary the employee would have received in the
2 employee's job classification if the employee was not on industrial leave.

3 6. "Beneficiary" means an individual who is being paid or who has
4 entitlement to the future payment of a pension on account of a reason other
5 than the individual's membership in the retirement plan.

6 7. "CATASTROPHIC DISABILITY" MEANS A PHYSICAL AND NOT A PSYCHOLOGICAL
7 CONDITION THAT THE LOCAL BOARD DETERMINES PREVENTS THE EMPLOYEE FROM TOTALLY
8 AND PERMANENTLY ENGAGING IN ANY GAINFUL EMPLOYMENT AND THAT RESULTS FROM A
9 PHYSICAL INJURY INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

10 ~~7.~~ 8. "Claimant" means a member, beneficiary or estate that files an
11 application for benefits with the retirement plan.

12 ~~8.~~ 9. "Credited service" means credited service transferred to the
13 retirement plan from another retirement system or plan for public employees
14 of this state, plus those compensated periods of service as a member of the
15 retirement plan for which member contributions are on deposit in the fund.

16 ~~9.~~ 10. "Cure period" means the ninety-day period in which a
17 participant or alternate payee may submit an amended domestic relations order
18 and request a determination, calculated from the time the plan issues a
19 determination finding that a previously submitted domestic relations order
20 did not qualify as a plan approved domestic relations order.

21 ~~10.~~ 11. "Designated position" means:

- 22 (a) For a county:
 - 23 (i) A county detention officer.
 - 24 (ii) A nonuniformed employee of a sheriff's department whose primary
25 duties require direct contact with inmates.
- 26 (b) For the state department of corrections and the department of
27 juvenile corrections, only the following specifically designated positions:
 - 28 (i) Food service.
 - 29 (ii) Nursing personnel.
 - 30 (iii) Corrections physician assistant.
 - 31 (iv) Therapist.
 - 32 (v) Corrections dental assistant.
 - 33 (vi) Hygienist.
 - 34 (vii) Corrections medical assistant.
 - 35 (viii) Correctional service officer, including assistant deputy
36 warden, deputy warden, warden and superintendent.
 - 37 (ix) State correctional program officer.
 - 38 (x) Parole or community supervision officers.
 - 39 (xi) Investigators.
 - 40 (xii) Teachers.
 - 41 (xiii) Institutional maintenance workers.
 - 42 (xiv) Youth corrections officer.
 - 43 (xv) Youth program officer.
 - 44 (xvi) Behavioral health treatment unit managers.

1 (xvii) The director and assistant directors of the department of
2 juvenile corrections and the superintendent of the state educational system
3 for committed youth.

4 (xviii) The director, deputy directors and assistant directors of the
5 state department of corrections.

6 (xix) Other positions designated by the local board of the state
7 department of corrections or the local board of the department of juvenile
8 corrections pursuant to section 38-891, subsection E.

9 (c) For a city or town, a city or town detention officer.

10 (d) For an employer of an eligible group as defined in section 38-842,
11 full-time dispatchers.

12 (e) For the judiciary, probation, surveillance and juvenile detention
13 officers.

14 ~~11.~~ 12. "Determination" means a written document that indicates to a
15 participant and alternate payee whether a domestic relations order qualifies
16 as a plan approved domestic relations order.

17 ~~12.~~ 13. "Determination period" means the ninety-day period in which
18 the plan must review a domestic relations order that is submitted by a
19 participant or alternate payee to determine whether the domestic relations
20 order qualifies as a plan approved domestic relations order, calculated from
21 the time the plan mails a notice of receipt to the participant and alternate
22 payee.

23 ~~13.~~ 14. "Domestic relations order" means an order of a court of this
24 state that is made pursuant to the domestic relations laws of this state and
25 that creates or recognizes the existence of an alternate payee's right to, or
26 assigns to an alternate payee the right to, receive a portion of the benefits
27 payable to a participant.

28 ~~14.~~ 15. "Employee" means a person determined by the local board to be
29 employed by a participating employer in a designated position.

30 ~~15.~~ 16. "Employer" means an agency or department of this state or a
31 political subdivision of this state ~~which~~ THAT has one or more employees in a
32 designated position.

33 ~~16.~~ 17. "Fund" means the corrections officer retirement plan fund.

34 ~~17.~~ 18. "Fund manager" means the fund manager of the public safety
35 personnel retirement system.

36 ~~18.~~ 19. "Juvenile detention officer" means a juvenile detention
37 officer responsible for the direct custodial supervision of juveniles who are
38 detained in a county juvenile detention center.

39 ~~19.~~ 20. "Local board" means the retirement board of the employer that
40 consists of persons appointed or elected to administer the plan as it applies
41 to the employer's members in the plan.

42 ~~20.~~ 21. "Member" means any employee who meets all of the following
43 qualifications:

44 (a) Who is a full-time paid person employed by a participating
45 employer in a designated position.

1 (b) Who is receiving salary for personal services rendered to a
2 participating employer or would be receiving salary except for an authorized
3 leave of absence.

4 (c) Whose customary employment is at least forty hours each week and
5 for more than six months in a calendar year.

6 ~~21.~~ 22. "Normal retirement date" means the first day of the calendar
7 month immediately following an employee's completion of twenty years of
8 service or, in the case of a dispatcher, twenty-five years of service, the
9 employee's sixty-second birthday and completion of ten years of service or
10 the month in which the sum of the employee's age and years of credited
11 service equals eighty.

12 ~~22.~~ 23. "Notice of receipt" means a written document that is issued by
13 the plan to a participant and alternate payee and that states that the plan
14 has received a domestic relations order and a request for a determination
15 that the domestic relations order is a plan approved domestic relations
16 order.

17 24. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL
18 BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY
19 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT OR A
20 MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE
21 FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.

22 ~~23.~~ 25. "Participant" means a member who is subject to a domestic
23 relations order.

24 ~~24.~~ 26. "Participant's portion" means benefits that are payable to a
25 participant pursuant to a plan approved domestic relations order.

26 ~~25.~~ 27. "Participating employer" means an employer ~~which~~ THAT the fund
27 manager has determined to have one or more employees in a designated position
28 or a county, city or town ~~which~~ THAT has entered into a joinder agreement
29 pursuant to section 38-902.

30 ~~26.~~ 28. "Pension" means a series of monthly payments by the retirement
31 plan.

32 ~~27.~~ 29. "Personal representative" means the personal representative of
33 a deceased alternate payee.

34 ~~28.~~ 30. "Plan approved domestic relations order" means a domestic
35 relations order that the plan approves as meeting all the requirements for a
36 plan approved domestic relations order as otherwise prescribed in this
37 article.

38 ~~29.~~ 31. "Probation or surveillance officer" means an officer appointed
39 pursuant to section 8-203, 12-251 or 12-259 but does not include other
40 personnel, office assistants or support staff.

41 ~~30.~~ 32. "Retired member" means an individual who is being paid a
42 pension on account of the individual's membership in the retirement plan.

43 ~~31.~~ 33. "Retirement" means termination of employment after a member
44 has fulfilled all requirements for a pension.

1 ~~32.~~ 34. "Retirement plan" or "plan" means the corrections officer
2 retirement plan established by this article.

3 ~~33.~~ 35. "Salary" means the base salary, shift differential pay and
4 holiday pay paid a member in a designated position for personal services
5 rendered to a participating employer on a regular monthly, semimonthly or
6 biweekly payroll basis. Salary includes amounts that are subject to deferred
7 compensation or tax shelter agreements. Salary does not include payment for
8 any remuneration or reimbursement other than as prescribed by this paragraph.
9 For the purposes of this paragraph, "base salary" means the amount of
10 compensation each member is regularly paid for personal services rendered to
11 an employer before the addition of any extra monies, including overtime pay,
12 shift differential pay, holiday pay, fringe benefit pay and similar extra
13 payments.

14 ~~34.~~ 36. "Segregated funds" means the amount of benefits that would
15 currently be payable to an alternate payee pursuant to a domestic relations
16 order under review by the plan, or a domestic relations order submitted to
17 the plan that failed to qualify as a plan approved domestic relations order,
18 if the domestic relations order were determined to be a plan approved
19 domestic relations order.

20 ~~35.~~ 37. "Service" means employment rendered to a participating
21 employer as an employee in a designated position. Any absence that is
22 authorized by an employer, including any periods during which the employee is
23 on an employer sponsored long-term disability program, is considered as
24 service if the employee returns or is deemed by the employer to have returned
25 to a designated position within the period of the authorized absence.

26 ~~36. "Total and permanent disability" means a physical or mental~~
27 ~~condition that is not an accidental disability, that the local board finds~~
28 ~~totally and permanently prevents a member from engaging in any gainful~~
29 ~~employment and that is the direct and proximate result of the member's~~
30 ~~performance of the member's duty as an employee of a participating employer.~~

31 38. "TEMPORARY DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT
32 THE LOCAL BOARD FINDS TOTALLY AND TEMPORARILY PREVENTS AN EMPLOYEE FROM
33 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT AND
34 THAT WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

35 Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws
36 2007, chapter 87, section 6, is amended to read:

37 38-881. Definitions

38 In this article, unless the context otherwise requires:

39 ~~1. "Accidental disability" means a physical or mental condition that~~
40 ~~the local board finds totally and permanently prevents an employee from~~
41 ~~performing a reasonable range of duties within the employee's department, was~~
42 ~~incurred in the performance of the employee's duties and was the result of~~
43 ~~any of the following:~~

44 ~~(a) Physical contact with inmates, prisoners, parolees or persons on~~
45 ~~probation.~~

~~(b) Responding to a confrontational situation with inmates, prisoners, parolees or persons on probation.~~

~~(c) A job related motor vehicle accident while on official business for the employee's employer. A job related motor vehicle accident does not include an accident that occurs on the way to or from work. Persons found guilty of violating a personnel rule, a rule established by the employee's employer or a state or federal law in connection with a job related motor vehicle accident do not meet the conditions for accidental disability.~~

1. "ACCIDENTAL DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT THE LOCAL BOARD FINDS TOTALLY AND PERMANENTLY PREVENTS AN EMPLOYEE FROM PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S JOB CLASSIFICATION AND THAT WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

2. "Accumulated member contributions" means the sum of all member contributions deducted from a member's salary and paid to the fund, plus member contributions transferred to the fund by another retirement plan covering public employees of this state, plus previously withdrawn accumulated member contributions ~~which~~ THAT are repaid to the fund in accordance with this article, minus any benefits paid to or on behalf of a member.

3. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

4. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

5. "Average monthly salary" means one-thirty-sixth of the aggregate amount of salary that is paid a member by a participating employer during a period of thirty-six consecutive months of service in which the member received the highest salary within the last one hundred twenty months of service. Average monthly salary means the aggregate amount of salary that is paid a member divided by the member's months of service if the member has less than thirty-six months of service. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the salary the employee would have received in the employee's job classification if the employee was not on industrial leave.

6. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

7. "CATASTROPHIC DISABILITY" MEANS A PHYSICAL AND NOT A PSYCHOLOGICAL CONDITION THAT THE LOCAL BOARD DETERMINES PREVENTS THE EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY GAINFUL EMPLOYMENT AND THAT RESULTS FROM A PHYSICAL INJURY INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

~~7-~~ 8. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

~~8-~~ 9. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees

1 of this state, plus those compensated periods of service as a member of the
2 retirement plan for which member contributions are on deposit in the fund.

3 ~~9.~~ 10. "Cure period" means the ninety-day period in which a
4 participant or alternate payee may submit an amended domestic relations order
5 and request a determination, calculated from the time the plan issues a
6 determination finding that a previously submitted domestic relations order
7 did not qualify as a plan approved domestic relations order.

8 ~~10.~~ 11. "Designated position" means:

9 (a) For a county:

10 (i) A county detention officer.

11 (ii) A nonuniformed employee of a sheriff's department whose primary
12 duties require direct contact with inmates.

13 (b) For the state department of corrections and the department of
14 juvenile corrections, only the following specifically designated positions:

15 (i) Food service.

16 (ii) Nursing personnel.

17 (iii) Corrections physician assistant.

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19 (v) Corrections dental assistant.

20 (vi) Hygienist.

21 (vii) Corrections medical assistant.

22 (viii) Correctional service officer, including assistant deputy
23 warden, deputy warden, warden and superintendent.

24 (ix) State correctional program officer.

25 (x) Parole or community supervision officers.

26 (xi) Investigators.

27 (xii) Teachers.

28 (xiii) Institutional maintenance workers.

29 (xiv) Youth corrections officer.

30 (xv) Youth program officer.

31 (xvi) Behavioral health treatment unit managers.

32 (xvii) The director and assistant directors of the department of
33 juvenile corrections and the superintendent of the state educational system
34 for committed youth.

35 (xviii) The director, deputy directors and assistant directors of the
36 state department of corrections.

37 (xix) Other positions designated by the local board of the state
38 department of corrections or the local board of the department of juvenile
39 corrections pursuant to section 38-891, subsection E.

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44 officers.

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~~13.~~ 14. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.

~~14.~~ 15. "Employee" means a person determined by the local board to be employed by a participating employer in a designated position.

~~15.~~ 16. "Employer" means an agency or department of this state or a political subdivision of this state ~~which~~ THAT has one or more employees in a designated position.

~~16.~~ 17. "Fund" means the corrections officer retirement plan fund.

~~17.~~ 18. "Fund manager" means the fund manager of the public safety personnel retirement system.

~~18.~~ 19. "Juvenile detention officer" means a detention officer responsible for the direct custodial supervision of juveniles who are detained in a county juvenile detention center.

~~19.~~ 20. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~20.~~ 21. "Member" means any employee who meets all of the following qualifications:

(a) Who is a full-time paid person employed by a participating employer in a designated position.

(b) Who is receiving salary for personal services rendered to a participating employer or would be receiving salary except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours each week and for more than six months in a calendar year.

~~21.~~ 22. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

~~22.~~ 23. "Notice of receipt" means a written document that is issued by the plan to a participant and alternate payee and that states that the plan

1 has received a domestic relations order and a request for a determination
2 that the domestic relations order is a plan approved domestic relations
3 order.

4 24. "ORDINARY DISABILITY" MEANS A PHYSICAL CONDITION THAT THE LOCAL
5 BOARD DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY
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7 MENTAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE
8 FROM TOTALLY AND PERMANENTLY ENGAGING IN ANY SUBSTANTIAL GAINFUL ACTIVITY.

9 ~~23.~~ 25. "Participant" means a member who is subject to a domestic
10 relations order.

11 ~~24.~~ 26. "Participant's portion" means benefits that are payable to a
12 participant pursuant to a plan approved domestic relations order.

13 ~~25.~~ 27. "Participating employer" means an employer ~~which~~ THAT the fund
14 manager has determined to have one or more employees in a designated position
15 or a county, city or town ~~which~~ THAT has entered into a joinder agreement
16 pursuant to section 38-902.

17 ~~26.~~ 28. "Pension" means a series of monthly payments by the retirement
18 plan.

19 ~~27.~~ 29. "Personal representative" means the personal representative of
20 a deceased alternate payee.

21 ~~28.~~ 30. "Plan approved domestic relations order" means a domestic
22 relations order that the plan approves as meeting all the requirements for a
23 plan approved domestic relations order as otherwise prescribed in this
24 article.

25 ~~29.~~ 31. "Probation or surveillance officer" means an officer appointed
26 pursuant to section 8-203, 12-251 or 12-259 but does not include other
27 personnel, office assistants or support staff.

28 ~~30.~~ 32. "Retired member" means an individual who is being paid a
29 pension on account of the individual's membership in the retirement plan.

30 ~~31.~~ 33. "Retirement" means termination of employment after a member
31 has fulfilled all requirements for a pension.

32 ~~32.~~ 34. "Retirement plan" or "plan" means the corrections officer
33 retirement plan established by this article.

34 ~~33.~~ 35. "Salary" means the base salary, overtime pay, shift
35 differential pay and holiday pay paid a member in a designated position for
36 personal services rendered to a participating employer on a regular monthly,
37 semimonthly or biweekly payroll basis, except that for the purposes of this
38 paragraph the amount of overtime included shall not include payments to the
39 member for the sale of compensatory time. Salary includes amounts that are
40 subject to deferred compensation or tax shelter agreements. Salary does not
41 include payment for any remuneration or reimbursement other than as
42 prescribed by this paragraph. For the purposes of this paragraph, "base
43 salary" means the amount of compensation each member is regularly paid for
44 personal services rendered to an employer before the addition of any extra
45 monies, including overtime pay, shift differential pay, holiday pay, payments

1 for the sale of compensatory time, fringe benefit pay and similar extra
2 payments.

3 ~~34-~~ 36. "Segregated funds" means the amount of benefits that would
4 currently be payable to an alternate payee pursuant to a domestic relations
5 order under review by the plan, or a domestic relations order submitted to
6 the plan that failed to qualify as a plan approved domestic relations order,
7 if the domestic relations order were determined to be a plan approved
8 domestic relations order.

9 ~~35-~~ 37. "Service" means employment rendered to a participating
10 employer as an employee in a designated position. Any absence that is
11 authorized by an employer, including any periods during which the employee is
12 on an employer sponsored long-term disability program, is considered as
13 service if the employee returns or is deemed by the employer to have returned
14 to a designated position within the period of the authorized absence.

15 ~~36. "Total and permanent disability" means a physical or mental~~
16 ~~condition that is not an accidental disability, that the local board finds~~
17 ~~totally and permanently prevents a member from engaging in any gainful~~
18 ~~employment and that is the direct and proximate result of the member's~~
19 ~~performance of the member's duty as an employee of a participating employer.~~

20 38. "TEMPORARY DISABILITY" MEANS A PHYSICAL OR MENTAL CONDITION THAT
21 THE LOCAL BOARD FINDS TOTALLY AND TEMPORARILY PREVENTS AN EMPLOYEE FROM
22 PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE EMPLOYEE'S DEPARTMENT AND
23 THAT WAS INCURRED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTY.

24 Sec. 3. Repeal

25 The following sections are repealed:

- 26 1. Section 38-886, Arizona Revised Statutes.
- 27 2. Section 38-886.01, Arizona Revised Statutes, as amended by Laws
28 2006, chapter 301, section 1.
- 29 3. Section 38-886.01, Arizona Revised Statutes, as amended by Laws
30 2007, chapter 261, section 5.

31 Sec. 4. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
32 amended by adding a new section 38-886, to read:

33 38-886. Requirements for normal and disability pensions; amount
34 of pensions

35 A. A MEMBER SHALL BE ELIGIBLE FOR A NORMAL PENSION ON RETIREMENT ON OR
36 AFTER THE MEMBER'S NORMAL RETIREMENT DATE. PAYMENT OF A NORMAL PENSION SHALL
37 COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF RETIREMENT,
38 AND THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH
39 THE DEATH OF THE RETIRED MEMBER OCCURS.

40 B. A MEMBER IS ELIGIBLE FOR AN ACCIDENTAL DISABILITY PENSION IF THE
41 MEMBER'S EMPLOYMENT IS TERMINATED BY REASON OF ACCIDENTAL DISABILITY. A
42 MEMBER IS ELIGIBLE FOR AN ORDINARY DISABILITY PENSION IF THE MEMBER'S
43 EMPLOYMENT IS TERMINATED BEFORE THE MEMBER'S NORMAL RETIREMENT DATE BY REASON
44 OF ORDINARY DISABILITY. A MEMBER SHALL FILE AN APPLICATION FOR A DISABILITY
45 PENSION AFTER THE DISABLING INCIDENT OR WITHIN ONE YEAR AFTER THE DATE THE

1 MEMBER CEASES TO BE AN EMPLOYEE. TIMELY APPLICATION FOR AN ACCIDENTAL,
2 CATASTROPHIC OR ORDINARY DISABILITY PENSION IS A PREREQUISITE TO RECEIPT OF
3 THE PENSION. PAYMENT OF AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY
4 PENSION SHALL COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF
5 RETIREMENT OR THE EXPIRATION OF A PERIOD DURING WHICH THE MEMBER IS RECEIVING
6 SICK LEAVE PAYMENTS OR A TEMPORARY DISABILITY PENSION, WHICHEVER IS LATER.
7 THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE
8 DEATH OF THE RETIRED MEMBER OCCURS OR, IF DISABILITY CEASES BEFORE THE
9 MEMBER'S NORMAL RETIREMENT DATE, THE FIRST DAY OF THE MONTH IN WHICH
10 DISABILITY CEASES.

11 C. A MEMBER IS ELIGIBLE FOR A CATASTROPHIC DISABILITY PENSION IF THE
12 MEMBER'S EMPLOYMENT IS TERMINATED BY REASON OF CATASTROPHIC DISABILITY. IF
13 MORE THAN THE ALLOWABLE CATASTROPHIC DISABILITY PENSIONS ARE APPROVED BY THE
14 LOCAL BOARDS IN A CALENDAR YEAR, FROM AND AFTER DECEMBER 31 OF THE FOLLOWING
15 CALENDAR YEAR A MEMBER OF THE PLAN IS NOT ELIGIBLE TO APPLY FOR A
16 CATASTROPHIC DISABILITY PENSION. ON OR BEFORE JANUARY 31, THE FUND MANAGER
17 SHALL REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES THE NUMBER OF CATASTROPHIC DISABILITY PENSIONS THAT WERE
19 APPROVED BY THE LOCAL BOARDS IN THE PRECEDING CALENDAR YEAR. FOR THE
20 PURPOSES OF THIS SUBSECTION, "ALLOWABLE CATASTROPHIC DISABILITY PENSIONS"
21 MEANS FOR CALENDAR YEAR 2008, TEN, AND FOR SUBSEQUENT CALENDAR YEARS THE
22 NUMBER OF ALLOWABLE CATASTROPHIC DISABILITY PENSIONS ALLOWED IN THE PRIOR
23 CALENDAR YEAR MINUS THE NUMBER OF CATASTROPHIC DISABILITY PENSIONS APPROVED
24 BY THE LOCAL BOARDS IN THE PRIOR CALENDAR YEAR PLUS FOUR.

25 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A MEMBER SHALL
26 NOT QUALIFY FOR AN ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY PENSION IF
27 THE LOCAL BOARD DETERMINES THAT THE MEMBER'S DISABILITY RESULTS FROM THE
28 FOLLOWING:

29 1. AN INJURY SUFFERED WHILE ENGAGED IN A FELONIOUS CRIMINAL ACT OR
30 ENTERPRISE.

31 2. SERVICE IN THE ARMED FORCES OF THE UNITED STATES THAT ENTITLES THE
32 MEMBER TO A VETERAN'S DISABILITY PENSION.

33 3. A PHYSICAL OR MENTAL CONDITION OR INJURY THAT EXISTED OR OCCURRED
34 BEFORE THE MEMBER'S DATE OF MEMBERSHIP IN THE PLAN.

35 E. ACCIDENTAL OR ORDINARY DISABILITY SHALL BE CONSIDERED TO HAVE
36 CEASED AND AN ACCIDENTAL OR ORDINARY DISABILITY PENSION TERMINATES IF THE
37 MEMBER:

38 1. HAS SUFFICIENTLY RECOVERED, IN THE OPINION OF THE LOCAL BOARD,
39 BASED ON A MEDICAL EXAMINATION BY A PHYSICIAN OR CLINIC APPOINTED BY THE
40 LOCAL BOARD, TO BE ABLE TO ENGAGE IN A REASONABLE RANGE OF DUTIES WITHIN THE
41 MEMBER'S DEPARTMENT AND THE MEMBER REFUSES AN OFFER OF EMPLOYMENT BY AN
42 EMPLOYER IN THE PLAN.

43 2. REFUSES TO UNDERGO ANY MEDICAL EXAMINATION REQUESTED BY THE BOARD,
44 EXCEPT THAT A MEDICAL EXAMINATION SHALL NOT BE REQUIRED MORE FREQUENTLY THAN
45 ONCE IN ANY CALENDAR YEAR.

1 F. SIXTY MONTHS AFTER THE AWARD OF A CATASTROPHIC DISABILITY PENSION,
2 THE LOCAL BOARD SHALL REEVALUATE THE MEMBER. IF THE MEMBER STILL QUALIFIES
3 FOR THE CATASTROPHIC DISABILITY PENSION, THE MEMBER IS ENTITLED TO CONTINUE
4 TO RECEIVE THE PENSION AT THE REDUCED AMOUNT PRESCRIBED IN SUBSECTION P OF
5 THIS SECTION. A CATASTROPHIC DISABILITY SHALL BE CONSIDERED TO HAVE CEASED
6 AND A CATASTROPHIC DISABILITY PENSION TERMINATES IF THE LOCAL BOARD
7 DETERMINES THAT THE MEMBER HAS SUFFICIENTLY RECOVERED AND IS ABLE TO ENGAGE
8 IN GAINFUL EMPLOYMENT BASED ON A MEDICAL EXAMINATION BY A PHYSICIAN OR A
9 CLINIC APPOINTED BY THE LOCAL BOARD. AFTER THE SIXTY MONTH REVIEW, THE
10 CATASTROPHIC DISABILITY SHALL BE CONSIDERED TO HAVE CEASED AND A CATASTROPHIC
11 DISABILITY PENSION TERMINATES IF THE LOCAL BOARD DETERMINES THAT THE MEMBER
12 HAS SUFFICIENTLY RECOVERED AND IS ABLE TO ENGAGE IN GAINFUL EMPLOYMENT BASED
13 ON A MEDICAL EXAMINATION BY A PHYSICIAN OR A CLINIC APPOINTED BY THE LOCAL
14 BOARD, EXCEPT THAT THE MEDICAL EXAMINATION SHALL NOT BE REQUIRED MORE
15 FREQUENTLY THAN ONCE IN A CALENDAR YEAR. THE MEDICAL REVIEW AFTER THE SIXTY
16 MONTH PERIOD DOES NOT APPLY AFTER THE DATE THE CATASTROPHIC DISABILITY
17 PENSIONER WOULD HAVE ATTAINED TWENTY-FIVE YEARS OF SERVICE ASSUMING THE
18 PENSIONER REMAINED A MEMBER OF THE PLAN. THE LOCAL BOARD SHALL ALSO
19 TERMINATE A CATASTROPHIC DISABILITY PENSION IF THE MEMBER REFUSES TO UNDERGO
20 ANY MEDICAL EXAMINATION REQUESTED BY THE BOARD. A MEMBER WHOSE CATASTROPHIC
21 DISABILITY PENSION IS TERMINATED MAY APPLY FOR AND, IF ELIGIBLE, IS ENTITLED
22 TO RECEIVE AN ACCIDENTAL DISABILITY PENSION AS PROVIDED IN THIS SECTION.

23 G. SUBSECTION E OF THIS SECTION DOES NOT APPLY AFTER A DISABILITY
24 PENSIONER'S NORMAL RETIREMENT DATE. THE AMOUNT OF A DISABILITY PENSION SHALL
25 NOT BE RECOMPUTED AT A DISABILITY PENSIONER'S NORMAL RETIREMENT DATE.

26 H. AN ORDINARY DISABILITY PENSION SHALL BE REDUCED IN THE PERIOD
27 BEFORE THE MEMBER'S NORMAL RETIREMENT DATE IF THE MEMBER ENGAGES IN ANY
28 EMPLOYMENT AND IF THE MEMBER'S INCOME FROM THIS EMPLOYMENT IS GREATER THAN
29 THE MEMBER'S PENSION UNREDUCED BY THIS SUBSECTION. THE AMOUNT OF THE
30 REDUCTION SHALL BE EQUAL TO THE DIFFERENCE BETWEEN THE MEMBER'S INCOME FROM
31 EMPLOYMENT AND THE MEMBER'S UNREDUCED PENSION. THE LOCAL BOARD MAY SUSPEND
32 PAYMENTS OF AN ORDINARY DISABILITY PENSION IF THE DISABLED MEMBER FAILS TO
33 REPORT EARNED INCOME. THIS SUSPENSION SHALL BE FOR THE PERIOD THERE IS NO
34 SATISFACTORY REPORT WITH RESTORATION OF BENEFITS ON ACCEPTANCE OF SUCH REPORT
35 OR UNTIL THE MEMBER'S NORMAL RETIREMENT DATE, WHICHEVER OCCURS EARLIER. IF,
36 IN THE OPINION OF THE LOCAL BOARD, THE REDUCTION PROVIDED IN THIS SUBSECTION
37 IS INSUFFICIENT TO RECOVER MONIES PREVIOUSLY PAID TO A MEMBER, EACH LOCAL
38 BOARD MAY BRING AN ACTION TO RECOVER ANY OUTSTANDING BALANCE DUE,
39 NOTWITHSTANDING ANY OTHER RIGHTS THE LOCAL BOARD POSSESSES.

40 I. IF ACCIDENTAL OR ORDINARY DISABILITY CEASES BEFORE A RETIRED MEMBER
41 ATTAINS THE MEMBER'S NORMAL RETIREMENT DATE AND THE MEMBER IS REEMPLOYED BY
42 AN EMPLOYER, THE PENSION PAYABLE ON THE MEMBER'S SUBSEQUENT RETIREMENT SHALL
43 BE DETERMINED AS PROVIDED IN SUBSECTION L OF THIS SECTION.

44 J. A MEMBER SHALL BE ELIGIBLE FOR A TEMPORARY DISABILITY PENSION IF
45 THE MEMBER'S EMPLOYMENT IS TERMINATED BEFORE THE MEMBER'S NORMAL RETIREMENT

1 DATE BY REASON OF TEMPORARY DISABILITY. PAYMENT OF A TEMPORARY DISABILITY
2 PENSION SHALL COMMENCE AS OF THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF
3 DISABILITY OR THE EXPIRATION OF A PERIOD DURING WHICH THE MEMBER IS RECEIVING
4 COMPENSATION AND SICK LEAVE PAYMENTS, WHICHEVER IS LATER. THE LAST PAYMENT
5 SHALL BE MADE AS OF THE FIRST DAY OF THE MONTH IN WHICH EITHER THE DEATH OF
6 THE MEMBER OCCURS OR THE LOCAL BOARD DEEMS THE MEMBER IS NO LONGER UNDER
7 TEMPORARY DISABILITY, WHICHEVER FIRST OCCURS, EXCEPT THAT NO MORE THAN TWELVE
8 MONTHLY TEMPORARY DISABILITY PAYMENTS SHALL BE MADE IN TOTAL TO THE MEMBER.

9 K. IF ON THE EXPIRATION OF A TEMPORARY DISABILITY PENSION THE LOCAL
10 BOARD FINDS ON APPLICATION THAT THE MEMBER HAS AN ACCIDENTAL OR ORDINARY
11 DISABILITY, THE MEMBER SHALL BE ELIGIBLE FOR AN ACCIDENTAL OR ORDINARY
12 DISABILITY PENSION, AS PROVIDED IN THIS SECTION.

13 L. IF A RETIRED MEMBER IS REEMPLOYED BY AN EMPLOYER, NO CONTRIBUTIONS
14 SHALL BE MADE ON THE RETIRED MEMBER'S ACCOUNT, NOR ANY SERVICE CREDITED,
15 DURING THE PERIOD OF SUCH REEMPLOYMENT. NOTWITHSTANDING THIS SUBSECTION, IF
16 A RETIRED MEMBER SUBSEQUENTLY BECOMES EMPLOYED IN THE SAME POSITION BY THE
17 EMPLOYER FROM WHICH THE MEMBER RETIRED, THE PLAN SHALL NOT MAKE PENSION
18 PAYMENTS TO THE RETIRED MEMBER DURING THE PERIOD OF REEMPLOYMENT. ON
19 SUBSEQUENT TERMINATION OF EMPLOYMENT BY THE RETIRED MEMBER, THE RETIRED
20 MEMBER IS ENTITLED TO RECEIVE A PENSION BASED ON THE MEMBER'S SERVICE AND
21 COMPENSATION BEFORE THE DATE OF THE MEMBER'S REEMPLOYMENT. IF A MEMBER WHO
22 RETIRED UNDER DISABILITY IS REEMPLOYED BY AN EMPLOYER AS AN EMPLOYEE, THAT
23 MEMBER SHALL BE TREATED AS IF THE MEMBER HAD BEEN ON AN UNCOMPENSATED LEAVE
24 OF ABSENCE DURING THE PERIOD OF THE MEMBER'S DISABILITY RETIREMENT AND SHALL
25 BE A CONTRIBUTING MEMBER OF THE PLAN. FOR THE PURPOSES OF THIS SUBSECTION,
26 "SAME POSITION" MEANS THE MEMBER IS IN A POSITION IN WHICH THE MEMBER
27 PERFORMS DUTIES THAT ARE THE SAME DUTIES THAT WERE PERFORMED, AND EXERCISES
28 AUTHORITY THAT IS THE SAME AUTHORITY THAT WAS EXERCISED, BY THE MEMBER BEFORE
29 THE MEMBER'S RETIREMENT.

30 M. A MEMBER WHO MEETS THE REQUIREMENTS FOR AN ACCIDENTAL DISABILITY
31 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS COMPUTED IN THE SAME MANNER AS
32 A NORMAL PENSION, USING THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION
33 BEFORE TERMINATION OF EMPLOYMENT AND THE MEMBER'S ACTUAL CREDITED SERVICE OR
34 TWENTY YEARS OF CREDITED SERVICE, WHICHEVER IS GREATER.

35 N. A MEMBER WHO MEETS THE REQUIREMENTS FOR AN ORDINARY DISABILITY
36 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS EQUAL TO A FRACTION TIMES THE
37 MEMBER'S NORMAL PENSION THAT IS COMPUTED ACCORDING TO SECTION 38-885,
38 SUBSECTION C IF THE MEMBER HAD TWENTY YEARS OF CREDITED SERVICE. THE
39 FRACTION IS THE RESULT OBTAINED BY DIVIDING THE MEMBER'S ACTUAL YEARS OF
40 CREDITED SERVICE, NOT TO EXCEED TWENTY YEARS OF CREDITED SERVICE, BY TWENTY.

41 O. A MEMBER WHO MEETS THE REQUIREMENTS FOR A TEMPORARY DISABILITY
42 PENSION SHALL RECEIVE A MONTHLY AMOUNT THAT IS EQUAL TO ONE-TWELFTH OF FIFTY
43 PER CENT OF THE MEMBER'S ANNUAL COMPENSATION RECEIVED IMMEDIATELY BEFORE THE
44 DATE ON WHICH THE MEMBER'S DISABILITY WAS INCURRED.

1 P. A MEMBER WHO MEETS THE REQUIREMENTS FOR A CATASTROPHIC DISABILITY
2 PENSION IS ENTITLED TO RECEIVE A MONTHLY AMOUNT COMPUTED AS FOLLOWS:

3 1. FOR THE FIRST SIXTY MONTHS, NINETY PER CENT OF THE MEMBER'S AVERAGE
4 MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT.

5 2. AFTER SIXTY MONTHS, SIXTY-TWO AND ONE-HALF PER CENT OF THE MEMBER'S
6 AVERAGE MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT OR
7 COMPUTED IN THE SAME MANNER AS A NORMAL PENSION USING THE MEMBER'S AVERAGE
8 MONTHLY BENEFIT COMPENSATION BEFORE TERMINATION OF EMPLOYMENT AND THE
9 MEMBER'S ACTUAL CREDITED SERVICE, WHICHEVER IS GREATER.

10 Q. A MEMBER WHO WAS EMPLOYED BEFORE SEPTEMBER 15, 1989 BY AN EMPLOYER
11 PARTICIPATING IN THE PLAN AND WHO RETIRES ON OR AFTER NOVEMBER 1, 2001 IS
12 ENTITLED TO RECEIVE A TAX EQUITY BENEFIT ALLOWANCE CONSISTING OF A PERMANENT
13 INCREASE OF TWO PER CENT OF THE MEMBER'S BASE BENEFIT RETROACTIVE TO THE DAY
14 OF RETIREMENT.

15 Sec. 5. Repeal

16 Laws 2007, chapter 261, section 17 is repealed.

17 Sec. 6. Conditional enactment

18 Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,
19 chapter 87, section 6 and this act, becomes effective on the date prescribed
20 by Laws 2005, chapter 324, section 2 but only on the occurrence of the
21 condition prescribed by Laws 2005, chapter 324, section 2.